

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF THE UNITED STATES TRUSTEE
JUDY A. ROBBINS
UNITED STATES TRUSTEE
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UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

IN RE:	§	
	§	
JOE JESSE MONGE	§	CASE NO. 09-30881-HCM
ROSANA ELENA MONGE	§	CHAPTER 11
	§	
	§	Hearing Date: None Requested
DEBTORS	§	

MOTION OF THE UNITED STATES TRUSTEE TO DISMISS CASE

THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE
TO YOUR INTERESTS.

IF NO TIMELY RESPONSE IS FILED WITHIN TWENTY ONE (21)
DAYS FROM THE DATE OF SERVICE, THE RELIEF
REQUESTED HEREIN MAY BE GRANTED WITHOUT A
HEARING BEING HELD.

A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING
TO BE HELD.

TO THE HONORABLE H. CHRISTOPHER MOTT
UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, JUDY A. ROBBINS, THE UNITED STATES TRUSTEE for
Region 7 ("UST"), through the undersigned counsel, pursuant to 11 U.S.C. § 1112(b)
and respectfully moves for an order to dismiss the case and represents as follows:

1. On April 27, 2009 the debtors filed a voluntary petition for relief pursuant to Chapter 11, Title 11 of the United States Code.

2. On April 8, 2010, the debtors filed their plan of reorganization. On May 10, 2010, they filed their amended plan of reorganization (the "Amended Plan").

3. On June 17, 2010, the court confirmed the debtors' Amended Plan. An order confirming the Amended Plan was entered on July 13, 2010. The order confirming the Amended Plan provided that the debtors would timely file any required post-confirmation reports.

4. Under section 1112(b) of the Bankruptcy Code, the Bankruptcy Court shall convert a case to chapter 7 or dismiss a case, whichever is in the best interest of the estate, if the movant establishes cause, unless the Court finds unusual circumstances that establish that conversion or dismissal of the case is not in the best interest of creditors and the estate. 11 U.S.C. § 1112(b).

5. In this case, cause exists to dismiss this case. The debtors have filed no operating reports in this case since May 2010. The debtors are delinquent on a Monthly Operating Report for June 2010 and owe Post Confirmation Reports for the 3rd Quarter 2010, 4th Quarter 2010, and 1st Quarter 2011.

6. "Timely and accurate financial disclosure is the life blood of the Chapter 11 process." *In re Berryhill*, 127 B.R. 427, 433 (Bankr. N.D. Ind. 1991). Because monthly operating reports are the means by which the creditors, the Court, and the United States Trustee can monitor a debtor's operations, the failure to file monthly operating reports by itself constitutes sufficient cause to warrant dismissal of this chapter 11 case. 11 U.S.C. § 1112(b)(4)(F); *Roma Group, Inc. v. Office of the United*

States Trustee (In re Roma Group, Inc.), 165 B.R. 779, 780 (S.D.N.Y. 1994) (failure to file monthly operating reports "undermines the Chapter 11 process and constitutes cause for dismissal or conversion").

7. In addition, pursuant to Section 1112(b)(4)(N), a material default by debtors with respect to a confirmed plan provides cause to dismiss a case. Here the failure to file the reports as required under the order confirming the plan is a material default. Therefore, cause exists to dismiss the case. Moreover, because the debtors have not filed their post-confirmation reports, the UST does not know whether they are complying with their obligations under the Plan. If the debtors have not complied with other provisions of the Plan, those failures would provide additional cause to dismiss the case.

8. For all the foregoing reasons, the case should be dismissed.

WHEREFORE, the UST prays that the Court enter an order dismissing this case and for any and all further relief as is equitable and just.

Respectfully submitted,

JUDY A. ROBBINS
UNITED STATES TRUSTEE
REGION 7

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing MOTION OF THE UNITED STATES TRUSTEE TO DISMISS CASE, was served by electronic means for all Pacer system participants and/or by first class mail, postage prepaid, to all parties listed the Service List on this the 29th day of April, 2011.

/s/ Kevin M. Epstein
Kevin M. Epstein
Trial Attorney

Label Matrix for local noticing
0542-3
Case 09-30881-hcm
Western District of Texas
El Paso
Fri Apr 29 13:55:15 CDT 2011

U.S. BANKRUPTCY COURT
P.O. BOX 971040
EL PASO, TX 79997-1040

AAFES/MIL STAR/EXCHANGE
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Dallas,Tx 75374-0933

AT&T
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P O Box 57907
Salt Lake City, UT 84157

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105 Thoroughbred
Santa Teresa, NM 88008-9130

Alicia Rojas and Francisco Jayme
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4171 North Mesa Street, Suite B-201
El Paso, TX 79902-1431

Ascension Capital Group, Inc.
Attn: Onyx Acceptance Corp Dept.
P.O. Box 201347
Arlington, TX 76006-1347

BAC Home Loans Servicing, L.P.
7105 Corporate Drive
PTX-B-35
Plano, TX 75024-4100

BAC Home Loans Servicing, L.P.
Polk, Prober 7 Raphael
A Law Corporation
20750 Ventura Boulevard, Suite 100
Woodland Hills, CA 91364-6207

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Capital One Auto Finance
3901 N Dallas Pkwy
Plano, TX 75093-7864

Carlos Mata
5019 Alabama
El Paso, TX 79930-2601

Citi
Attn: Centralized Bankruptcy
PO Box 20507
Kansas City, MO 64195-0507

City of El Paso
El Paso Tax Assessor/Collector
PO Box 2992
El Paso, TX 79999-2992

City of El Paso
c/o David G. Aelvoet
711 Navarro, Suite 300
San Antonio, TX 78205-1749

City of El Paso Tax Assessor Collector
c/o Linebarger, Goggan Blair & Sampson
711 Navarro, Ste. 200
San Antonio, TX 78205-1711

City of El Paso Tax Assessor/Collector
P. O. Box 2992
El Paso, TX 79999-2992

Countrywide Home Lending
Attention: Bankruptcy SV-314B
PO Box 5170
Simi Valley, CA 93062-5170

Credit Management
4200 International Pwy
Carrollton, TX 75007-1912

Dona Ana County
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Property Tax Assessor
845 N. Motel Blvd.
Las Cruces, NM 88007-8100

Dona Ana County Treasurer
David Gutierrez, Treasurer
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Las Cruces, NM 88007-8100

El Paso Area Tchrs Fcu
12020 Rojas Dr
El Paso, TX 79936-7711

El Paso Area Teachers Federal
Credit Union
c/o Carlos A. Miranda III, P.C.
5915 Silver Springs, Bldg. 3A
El Paso, TX 79912-4126

El Paso Area Teachers Federal Credit Union
Attn: Linda Aldeis, Collections Manager
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El Paso, Texas 79902-5411

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(p)INTERNAL REVENUE SERVICE
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Sioux Falls, SD 57101-1027

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Lease Financial Group
233 N Michigan Ave Ste 1
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Property Owners Assoc.
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SUNLAND PARK, NM 88063-2914

Margarita Maria Mata Flores
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El Paso, TX 79930-2601

Military Star
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PO Box 650062
Dallas, TX 75265-0062

New Century Mortgage Corporation
c/o BAC Home Loans Servicing, LP
7105 Corporate Drive
PTX-B-35
Plano, TX 75024-4100

Onyx Acceptance Corp (Serviced by Capital On
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Arlington, TX 76006-1347

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Miami, FL 33131-1605

Rosana Elena Monge
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El Paso, TX 79902-1030

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El Paso, TX 79936-1373

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Revenue Department
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Vacation Break Resorts & Club
Star Island Condominium Association
P. O. Box 850001
Orlando, FL 32885-0001

Verizon Wireless
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Bellevue, WA 98008-5757

Verizon Wireless West
Verizon Wireless
PO Box 3397
Bloomington, IL 61702-3397

Wyndham Vacation Resorts
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Boston, MA 02241-3630

(p)WYNDHAM CONSUMER FINANCE INC
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LAS VEGAS NV 89195-0001

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Las Vegas, NV 89135-1049

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El Paso, TX 79902-1535

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

INTERNAL REVENUE SERVICE	(d)IRS - Special Procedures Staff	Wyndham Vacation Resorts
INSOLVENCY OFFICE	Stop 5022 AUS	P. O. Box 98940
300 E.8TH ST. M/S 5026AUS	300 E. 8th Street	Las Vegas, NV 89193-8940
AUSTIN, TX 78701	Austin, TX 78701	

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

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El Paso, TX 79902-1928	El Paso, TX 79902-1928	Bypassed recipients	2
		Total	60